

critical components. I will look forward, once we get on the bill itself, to talking about a number of those components.

I am delighted with the debate thus far. I look forward to continued participation on this important bill. We have seen at the State level that liability reform can work. This particular bill we are trying to bring to the floor is a bill based on the MICRA system, Medical Injury and Compensation Reform Act that was passed in California in the mid-1970s. We know that is a big State. It has a high cost of living. Yet the overall premiums paid by physicians there have been much more controlled than in other parts of the country. MICRA works. We have that track record. We have that to look back to. That is why I feel so good about the legislation we will hopefully bring to the floor.

There will be lots of blame passed around in terms of why the system today is not working. Some people say it is the doctors. Some people say it is hospitals. Others will say it is the insurance companies. Some people say the stock market and the bond market. We will have this crisis blamed on lots of different things as we go forward. I would argue that at the heart of the crisis is the current liability system which promotes these excessive lawsuits, and that it can be fixed. It can be fixed. That is what I look forward to doing with my colleagues on the floor of the Senate.

Passage of this measure will help on both the access issues in health care as well as the expense issues for all Americans. If we do it, and we do it right, it will improve health care for all Americans.

#### EXECUTIVE SESSION

#### NOMINATION OF BRUCE E. KASOLD, OF VIRGINIA, TO BE A JUDGE OF THE UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

Mr. FRIST. Pursuant to the order of June 27, I ask that the Senate proceed to executive session for the consideration of Calendar No. 132.

The PRESIDING OFFICER. The clerk will report the nomination.

The legislative clerk read the nomination of Bruce E. Kasold, of Virginia, to be judge for the United States Court of Appeals for Veterans Claims for the term prescribed by law.

#### RESOLUTIONS PLACED ON EXECUTIVE CALENDAR

Mr. FRIST. I now send a resolution to the desk to discharge from the Judiciary Committee the nomination of David W. McKeague, of Michigan, to be a United States Circuit Judge for the Sixth Circuit. I ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection?

Mr. DURBIN. Mr. President, reserving the right to object, this nomination for the Sixth Circuit, and the others that will be made by the majority leader, have not had the benefit of any hearing before the Senate Judiciary Committee. I believe that hearing should take place before a lifetime appointment is given to any person to the Circuit Court. So, on behalf of Senators CARL LEVIN and DEBBIE STABENOW of Michigan, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. FRIST. Mr. President, I now send a resolution to discharge from the Judiciary Committee the nomination of Susan Bieke Nielson of Michigan to be a U.S. circuit judge for the Sixth Circuit, and I ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection?

Mr. DURBIN. Mr. President, for the same reasons, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. FRIST. I now send a resolution to discharge from the Judiciary Committee the nomination of Henry W. Saad of Michigan to be a U.S. circuit judge for the Sixth Circuit, and I ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection?

Mr. DURBIN. Mr. President, for the same reasons, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. FRIST. Mr. President, I now send a resolution to discharge from the Judiciary Committee the nomination of Richard Griffin of Michigan to be a U.S. circuit judge for the Sixth Circuit, and I ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection?

Mr. DURBIN. For the same reasons, I object.

The PRESIDING OFFICER. Objection is heard.

The foregoing resolutions will be placed on the Executive Calendar.

#### LEGISLATIVE SESSION

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate resume legislative session, and the motion to proceed.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### PATIENTS FIRST ACT OF 2003—MOTION TO PROCEED—Continued

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, at the outset, I thank my colleagues and the clerical staff awaiting my arrival from the customary Monday travel day from Philadelphia to Scranton to Harrisburg to Washington. For those who may be about to venture onto the Baltimore Washington Parkway, the traffic is very heavy indeed. Although when I ar-

rived in the Senate Chamber and I saw active debate, I am not quite sure my late arrival has caused too much inconvenience.

I support legislation which would address the serious problems faced today by doctors, hospitals and other medical professionals and at the same time provide balance to treat fairly people who are injured in the course of medical treatment.

While most of the attention has been directed to medical malpractice verdicts, the issues are much broader, involving medical errors, insurance company investments and administrative practices.

I support caps on noneconomic damages so long as they do not apply to situations like the paperwork mix-up leading to the erroneous double mastectomy of a woman or the recent death of a 17-year-old woman on a North Carolina transplant case where there was a faulty blood test.

An appropriate standard for cases not covered could be analogous provisions in Pennsylvania law which limit actions against governmental entities or in the limited tort context which exclude death, serious impairment of bodily function, and permanent disfigurement or dismemberment.

Beyond the issue of caps, I believe there could be savings on the cost of medical malpractice insurance by eliminating frivolous cases by requiring plaintiffs to file with the court a certification by a doctor in the field that it is an appropriate case to bring to court. This proposal, which is now part of Pennsylvania State procedure, would be expanded federally, thus reducing claims and saving costs. While most malpractice cases are won by defendants, the high cost of litigation drives up malpractice premiums. The proposed certification would reduce plaintiff's joinder of peripheral defendants and cut defense costs.

Further savings could be accomplished through patient safety initiatives identified in the report of the Institute of Medicine.

On November 29, 1999, the Institute of Medicine—IOM—issued a report entitled: To Err is Human: Building a Safer Health System. The IOM Report estimated that anywhere between 44,000 and 98,000 hospitalized Americans die each year due to avoidable medical mistakes. However, only a fraction of these deaths and injuries are due to negligence; most errors are caused by system failures. The IOM issued a comprehensive set of recommendations, including the establishment of a nationwide, mandatory reporting system; incorporation of patient safety standards in regulatory and accreditation programs; and the development of a non-punitive culture of safety in health care organizations. The report called for a 50 percent reduction in medical errors over 5 years.

The Appropriations Subcommittee on Labor, Health and Human Services and Education, which I chair, held three